

Senate File 438 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1206)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to actions injurious to dependent adults and
2 residents of health care facilities and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1340SV 83
5 rh/rj/8

PAG LIN

1 1 Section 1. Section 235B.2, subsection 5, paragraph a,
1 2 subparagraph (3), Code 2009, is amended to read as follows:
1 3 (3) (a) Sexual exploitation of a dependent adult by a
1 4 caretaker.
1 5 (b) "Sexual exploitation" means any consensual or
1 6 nonconsensual sexual conduct with a dependent adult ~~for the~~
~~1 7 purpose of arousing or satisfying the sexual desires of the~~
~~1 8 caretaker or dependent adult, which includes but is not~~
1 9 limited to kissing; touching of the clothed or unclothed inner
1 10 thigh, breast, groin, buttock, anus, pubes, or genitals; or a
1 11 sex act, as defined in section 702.17. "Sexual exploitation"
1 12 includes the transmission, display, taking of electronic
1 13 images of the unclothed breast, groin, buttock, anus, pubes,
1 14 or genitals of a dependent adult by a caretaker for a purpose
1 15 not related to treatment or diagnosis or as part of an ongoing
1 16 assessment, evaluation, or investigation. Sexual exploitation
1 17 does not include touching which is part of a necessary
1 18 examination, treatment, or care by a caretaker acting within
1 19 the scope of the practice or employment of the caretaker; the
1 20 exchange of a brief touch or hug between the dependent adult
1 21 and a caretaker for the purpose of reassurance, comfort, or
1 22 casual friendship; or touching between spouses.
1 23 Sec. 2. Section 235B.17, Code 2009, is amended to read as
1 24 follows:
1 25 235B.17 PROVISION OF PROTECTIVE SERVICES WITH THE CONSENT
1 26 OF DEPENDENT ADULT == CARETAKER REFUSAL.
1 27 1. If a caretaker of a dependent adult, who consents to
1 28 the receipt of protective services, refuses to allow provision
1 29 of the services, the department may petition the court with
1 30 probate jurisdiction in the county in which the dependent
1 31 adult resides for an order enjoining the caretaker from
1 32 interfering with the provision of services.
1 33 2. The petition shall be verified and shall allege
1 34 specific facts sufficient to demonstrate that the dependent
1 35 adult is in need of protective services and consents to the
2 1 provision of services and that the caretaker refuses to allow
2 2 provision of the services. The petition shall include all of
2 3 the following:
2 4 a. The name, date of birth, and address of the dependent
2 5 adult alleged to be in need of protective services.
2 6 b. The protective services required.
2 7 c. The name and address of the caretaker refusing to allow
2 8 the provision of services.
2 9 3. The court shall set the case for hearing within
2 10 fourteen days of the filing of the petition. The dependent
2 11 adult and the caretaker refusing to allow the provision of
2 12 services shall receive at least five days' notice of the
2 13 hearing.
2 14 4. If the judge finds by clear and convincing evidence
2 15 that the dependent adult is in need of protective services and
2 16 consents to the services and that the caretaker refuses to

2 17 allow the services, the judge may issue an order enjoining the
2 18 caretaker from interfering with the provision of the
2 19 protective services.

2 20 Sec. 3. Section 235B.18, Code 2009, is amended by adding
2 21 the following new subsection:

2 22 NEW SUBSECTION. 1A. The petition specified in subsection
2 23 1 shall be verified and shall include all of the following:

2 24 a. The name, date of birth, and address of the dependent
2 25 adult alleged to be in need of protective services.

2 26 b. The nature of the dependent adult abuse.

2 27 c. The protective services required.

2 28 Sec. 4. Section 235B.20, Code 2009, is amended by adding
2 29 the following new subsection:

2 30 NEW SUBSECTION. 6A. A caretaker who otherwise
2 31 intentionally or knowingly commits dependent adult abuse upon
2 32 a dependent adult in violation of this chapter is guilty of a
2 33 serious misdemeanor.

2 34 EXPLANATION

2 35 This bill relates to actions injurious to dependent adults
3 1 and residents of health care facilities and provides
3 2 penalties.

3 3 The bill amends the definition of dependent adult abuse in
3 4 Code chapter 235B relating to dependent adult abuse and the
3 5 statewide collection and dissemination of dependent adult
3 6 abuse registry information. The bill excludes the element of
3 7 sexual arousal or desire from the definition of sexual
3 8 exploitation, and amends the definition of sexual exploitation
3 9 of a dependent adult to include the transmission, display,
3 10 taking of electronic images of the unclothed breast, groin,
3 11 buttock, anus, pubes, or genitals of a dependent adult by a
3 12 caretaker for a purpose not related to treatment or diagnosis
3 13 or as part of an ongoing assessment, evaluation, or
3 14 investigation.

3 15 The bill authorizes a court with probate jurisdiction to
3 16 issue a protective order for a dependent adult who lacks the
3 17 ability to consent to protective services and whose caretaker
3 18 refuses to allow the protective services. The bill also
3 19 provides that the petition for a protective order in such a
3 20 case must be verified and contain certain specific
3 21 information.

3 22 The bill amends Code section 235B.20 relating to a
3 23 caretaker of a dependent adult who commits the crime of
3 24 dependent adult abuse and provides that a caretaker who
3 25 otherwise intentionally or knowingly commits dependent adult
3 26 abuse upon a dependent adult is guilty of a serious
3 27 misdemeanor. A serious misdemeanor is punishable by
3 28 confinement for no more than one year and a fine of at least
3 29 \$315 but not more than \$1,875.

3 30 LSB 1340SV 83

3 31 rh/rj/8